

2022 Regular Session

HOUSE BILL NO. 529

BY REPRESENTATIVE BROWN

INSURANCE DEPARTMENT: Provides for the organization of the Department of Insurance

1 AN ACT

2 To amend and reenact R.S. 22:3, 1921(A), (C), and (D), 1922(A), 1926,

3 1928(A)(introductory paragraph), 1929(A), 2132(G)(2), 2161(J), 2171(L), R.S.

4 36:681(C), 683, 687, 689, and 691.1, to enact R.S. 36:681(D), 686(C)(3) and (4), and

5 694.1, and to repeal R.S. 36:686(D) and (E), relative to the organization of the

6 Department of Insurance; to provide for the offices within and officers for the

7 department; to provide for the administration of certain commissions within the

8 department; to provide for the chief deputy commissioner of the department; to

9 create the office of policy, innovation, and research; to provide the duties and

10 functions of the office and the deputy commissioner of policy, innovation, and

11 research; to make technical changes; to provide for an effective date; and to provide

12 for related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. R.S. 22:3, 1921(A), (C), and (D), 1922(A), 1926, 1928(A)(introductory

15 paragraph), 1929(A), 2132(G)(2), 2161(J), and 2171(L) are hereby amended and reenacted

16 to read as follows:

17 §3. Composition of Department of Insurance

18 The Department of Insurance shall be comprised of the office of the

19 commissioner, the office of management and finance, the office of property and

20 casualty, the office of licensing, the office of financial solvency, the office of

1 consumer advocacy and diversity, the office of health, life and annuity, the office of
 2 consumer services, the ~~division~~ office of insurance fraud, the ~~division~~ office of legal
 3 services, the office of policy, innovation, and research, the division of public affairs,
 4 the division of diversity and opportunity and any other office or division that may
 5 be included by the Executive Reorganization Act or other law. Each office or
 6 division shall be administered as prescribed by Titles 36 and 39 of the Louisiana
 7 Revised Statutes of 1950.

8 * * *

9 §1921. Purpose and powers

10 A. The purpose of this Part is to create within the Department of Insurance
 11 ~~a division~~ an office of insurance fraud. This ~~division~~ office shall be charged with the
 12 responsibility, when directed by the commissioner of insurance, to conduct
 13 investigations and background criminal checks on each applicant for a license or
 14 certificate of authority to transact a business of insurance. The ~~division~~ office of
 15 insurance fraud shall be governed by the provisions of this Part including the powers
 16 and duties relating to the investigation and prevention of administrative or civil
 17 violations of the insurance laws of this state.

18 * * *

19 C. If the ~~division~~ office has reason to believe, whether acting on its own
 20 initiative or as a result of complaints, that a person has engaged in, or is engaging in,
 21 an act or practice that violates this Part or any other provision of this Code, it may
 22 examine and investigate the affairs of such person and may administer oaths and
 23 affirmations, serve subpoenas ordering the attendance of witnesses, and collect
 24 evidence.

25 D. If during the course of investigation, the ~~division~~ office of insurance fraud
 26 determines that there may be a violation of criminal law, the ~~division~~ office shall turn
 27 the matter over to the Department of Justice; the Department of Public Safety and
 28 Corrections, public safety services, office of state police; and any other appropriate

1 law enforcement or prosecutorial agency, for further investigation, enforcement, or
2 prosecution.

3 * * *

4 §1922. Additional powers and duties

5 A. The ~~division~~ office of insurance fraud shall have access to computer
6 systems, information maintained for the use of law enforcement personnel, any
7 information contained in the criminal history record and identification file of the
8 Louisiana Bureau of Criminal Identification and Information, and direct and timely
9 access to information compiled by the Federal Bureau of Investigation, as contained
10 in the National Crime Information Center, for the purposes of carrying out its
11 responsibilities under this Part.

12 * * *

13 §1926. Duties of companies and others

14 A. Any person, company, or other legal entity including but not limited to
15 those engaged in the business of insurance, including producers and adjusters, that
16 suspects that a fraudulent insurance act will be, is being, or has been committed
17 shall, within sixty days of the receipt of such notice, send to the ~~division~~ office of
18 insurance fraud, on a form prescribed by the commissioner, the information
19 requested and such additional information relative to the insurance act and the parties
20 claiming loss or damages because of an occurrence or accident as the commissioner
21 may require. The ~~division~~ office of insurance fraud shall review such reports and
22 select such insurance acts as, in its judgment, may require further investigation. It
23 shall then cause an independent examination of the facts surrounding such insurance
24 act to be made to determine the extent, if any, to which fraud, deceit, or intentional
25 misrepresentation of any kind exists in the submission of the insurance act.

26 B. The ~~division~~ office of insurance fraud shall report any alleged violations
27 of law which its investigations disclose to the appropriate licensing agency, the
28 insurance fraud investigation unit of the office of state police, the insurance fraud
29 support unit of the Department of Justice, and the prosecutive authority having

1 jurisdiction with respect to any such violation. These units shall work jointly on
2 criminal referrals.

3 * * *

4 §1928. Civil immunity

5 A. No insurer, employees, or agents of any insurer, or any other person
6 acting without malice, fraudulent intent, or bad faith, shall be subject to civil liability
7 for libel, slander, or any other relevant tort, and no civil cause of action of any nature
8 shall exist against such person or entity by virtue of the filing of reports or furnishing
9 other information, either orally or in writing, concerning suspected, anticipated, or
10 completed fraudulent insurance acts when such reports or information are required
11 by this Part or required by the ~~division~~ office of insurance fraud as a result of the
12 authority ~~herein~~ granted pursuant to this Part or when such reports or information are
13 provided to or received from:

14 * * *

15 §1929. Confidentiality of criminal background checks; civil penalties

16 A. Notwithstanding any other provision of law to the contrary, criminal
17 background information in the possession of the ~~division~~ office of insurance fraud
18 of the Department of Insurance shall be confidential and shall not be disclosed to
19 others outside of the ~~division~~ office of insurance fraud except as necessary for action
20 on the application of the applicant.

21 * * *

22 §2132. Authority; creation, powers

23 * * *

24 G.

25 * * *

26 (2) ~~A director and assistant director shall be selected by the board and serve~~
27 ~~at the pleasure of the~~ The ~~commissioner of insurance, shall be considered public~~

1 ~~employees, and shall operate the daily affairs of the authority as specified herein in~~
2 ~~this Section~~ and by the board.

3 * * *

4 §2161. Louisiana Health Care Commission; creation

5 * * *

6 J. The commissioner ~~may employ such persons, including experts, as~~
7 ~~necessary to carry out the provisions of this Part and may fix the compensation of~~
8 ~~technical, professional, and clerical employees as needed for the commission to~~
9 ~~complete its work. Any such employee shall be compensated from the budget of the~~
10 ~~commissioner. The commission shall employ a director and an assistant director,~~
11 ~~who shall be appointed by the commission subject to the approval of the~~
12 ~~commissioner of insurance. The director and assistant director shall be in the~~
13 ~~unclassified service. All employees of the commission shall be under the direction~~
14 ~~and supervision of the commissioner of insurance~~ shall conduct the daily affairs of
15 the commission as specified in this Section.

16 §2171. Louisiana Property and Casualty Insurance Commission

17 * * *

18 L. The commissioner ~~of insurance shall appoint a director and an assistant~~
19 ~~director with the consent of the Senate who shall serve at the pleasure of the~~
20 ~~commissioner. The commissioner of insurance may also employ such persons,~~
21 ~~including two unclassified employees, as necessary to carry out the provisions of this~~
22 ~~Section and may establish the compensation of technical, professional, and clerical~~
23 ~~employees as needed for the commission to accomplish its work. Any such~~
24 ~~employee shall be compensated from the budget of the commissioner. All of the~~
25 ~~employees of the commission shall be under the direction and supervision of the~~
26 ~~commissioner of insurance~~ shall conduct the daily affairs of the commission as
27 specified in this Section.

1 Section 2. R.S. 36:681(C), 683, 687, 689, and 691.1 are hereby amended and
2 reenacted and R.S. 36:681(D), 686(C)(3) and (4), and 694.1 are hereby enacted to read as
3 follows:

4 §681. Department of Insurance; creation; domicile; purposes and functions

5 * * *

6 C.(1) The officers of the department shall be the commissioner of insurance;
7 the chief deputy commissioner, if one is appointed; the deputy commissioner for
8 management and finance; the deputy commissioner for policy, innovation, and
9 research; the deputy commissioner for property and casualty; the deputy
10 commissioner for insurance fraud; the deputy commissioner for licensing; the deputy
11 commissioner for financial solvency; the deputy commissioner for health, life, and
12 annuity; the deputy commissioner for public affairs; the deputy commissioner for
13 consumer services; the deputy commissioner for consumer advocacy and diversity;
14 the assistant commissioner of diversity and opportunity; and the executive counsel.

15 (2) With the exception of the commissioner of insurance, each shall be
16 appointed by the commissioner of insurance with the consent of the Senate and shall
17 serve at the pleasure of the commissioner of insurance, at a salary fixed by the
18 commissioner, which salary shall not exceed the amount approved for such position
19 by the legislature while in session. Their duties and functions shall be determined
20 and assigned by the commissioner of insurance and as provided in this Title. ~~When~~
21 ~~a chief deputy commissioner is appointed, he shall be the first assistant to the~~
22 ~~commissioner appointed pursuant to Article IV, Section 13 of the Constitution of~~
23 ~~Louisiana.~~

24 (3) If a chief deputy commissioner is appointed, he shall be the first assistant
25 to the commissioner of insurance appointed pursuant to Article IV, Section 13 of the
26 Constitution of Louisiana. If a chief deputy commissioner is not appointed, the
27 commissioner of insurance shall appoint his first assistant to one of the offices of
28 deputy commissioner.

1 D. The Department of Insurance shall be composed of the executive office
2 of the commissioner; the office of management and finance; the office of policy,
3 innovation, and research; the office of property and casualty; the office of insurance
4 fraud; the office licensing; the office of financial solvency; the office of health, life,
5 and annuity; the division of public affairs; the office of consumer services; the office
6 of consumer advocacy and diversity; the division of diversity and opportunity; and
7 the office of legal services.

8 * * *

9 §683. Chief deputy commissioner

10 There ~~shall~~ may be a chief deputy commissioner of the department, who shall
11 be appointed by the commissioner of insurance with consent of the Senate and who
12 shall serve at the pleasure of the commissioner of insurance in the office of the
13 commissioner, at a salary fixed by the commissioner of insurance which salary shall
14 not exceed the amount approved for such position by the legislature while in session.
15 The chief deputy shall be the first assistant of the commissioner of insurance
16 appointed pursuant to Article IV, Section 13 of the Constitution of Louisiana. The
17 duties and functions of the chief deputy commissioner shall be determined and
18 assigned by the commissioner of insurance. He shall serve as acting commissioner
19 of insurance in the absence of the commissioner as provided by law.

20 * * *

21 §686. Transfer of agencies to the Department of Insurance

22 * * *

23 C. The following agencies are transferred to the Department of Insurance
24 and shall exercise their powers, duties, functions, and responsibilities in the manner
25 provided in R.S. 36:802:

26 * * *

27 (3) The Louisiana Health Care Commission (R.S. 22:2161).

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 (4) The Board of Directors of the Louisiana Automobile Theft and Insurance
2 Fraud Prevention Authority (R.S. 22:2131 et seq.).

3 * * *

4 §687. Deputy commissioner for consumer services; functions; ~~division office~~ of
5 consumer services

6 There is hereby created a ~~division~~ an office of consumer services under the
7 direction of the deputy commissioner for consumer services. The duties and
8 functions of the ~~division office~~ and the deputy commissioner shall be the receipt and
9 processing of consumer complaints, market conduct analysis and examination, and
10 such additional duties and functions as are assigned by the commissioner of
11 insurance.

12 * * *

13 §689. ~~Division Office~~ of legal services; functions

14 There is hereby created a ~~division~~ an office of legal services in the
15 ~~department of insurance. Such division shall be~~ Department of Insurance under the
16 direction of the executive counsel. The duties and functions of the ~~division office~~
17 of legal services and the executive counsel ~~for the division of legal services~~ shall be
18 as provided in this Title and as assigned by the commissioner of insurance.

19 * * *

20 §691.1. ~~Division Office~~ of insurance fraud

21 There is hereby created a ~~division~~ an office of insurance fraud in the
22 Department of Insurance ~~that shall be~~ under the direction of the deputy commissioner
23 for insurance fraud. The duties and functions of the ~~division office~~ of insurance
24 fraud and the deputy commissioner for insurance fraud shall be the investigation of
25 alleged administrative or civil fraudulent insurance acts, other administrative or civil
26 violations of the insurance laws of this state, executive security, and such additional
27 duties and functions as assigned by the commissioner of insurance.

28 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored
are additions.

1 §694.1. Office of policy, innovation, and research; functions

2 A. There is hereby created an office of policy, innovation, and research in
3 the Department of Insurance under the direction of the deputy commissioner for
4 policy, innovation, and research.

5 B. The duties and functions of the office of policy, innovation, and research
6 and the deputy commissioner for policy, innovation, and research shall be the
7 following:

8 (1) Research and development of policy proposals relative to the following:

- 9 (a) Regulation of insurance.
- 10 (b) Prevention and detection of insurance fraud.
- 11 (c) Innovation in insurance products and technology.
- 12 (d) Availability and affordability of insurance.
- 13 (e) Healthcare and health insurance, including long-term care.
- 14 (f) Property and casualty insurance, including issues related to disasters,
15 building codes, highway safety, and the adjustment and payment of claims.

- 16 (g) Life insurance and annuities.
- 17 (h) Development and promotion of the insurance industry in this state.

18 (2) Development and preparation of proposals for legislation, rules and
19 regulations, and other administrative actions.

20 (3) Participation in and liaison with the following organizations of which the
21 commissioner of insurance is the representative of this state:

- 22 (a) The National Association of Insurance Commissioners (NAIC).
- 23 (b) The Interstate Insurance Product Regulation Commission (IIPRC).
- 24 (c) The International Association of Insurance Supervisors (IAIS).
- 25 (4) Monitoring the activities of the following, relative to insurance

26 regulation:

- 27 (a) Congress and federal agencies.
- 28 (b) The National Council of Insurance Legislators (NCOIL).
- 29 (c) The National Conference of State Legislatures (NCSL).

- 1 (d) Other organizations that affect the regulation of insurance.
- 2 (5) Other duties and functions assigned by the commissioner of insurance.
- 3 C. In addition to the deputy commissioner of policy, innovation, and
- 4 research, the commissioner of insurance may also employ such persons, including
- 5 four unclassified employees, as necessary to carry out the provisions of this Section
- 6 and to provide necessary staff support for the following entities:
- 7 (1) The Louisiana Health Care Commission.
- 8 (2) The Louisiana Automobile Theft and Insurance Fraud Prevention
- 9 Authority.
- 10 (3) The Louisiana Property and Casualty Insurance Commission.

11 Section 3. R.S. 36:686(D) and (E) are hereby repealed in their entirety.

12 Section 4. This Act shall become effective upon signature by the governor or, if not
 13 signed by the governor, upon expiration of the time for bills to become law without signature
 14 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 15 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 16 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 529 Reengrossed 2022 Regular Session Brown

Abstract: Provides for the organization of the Department of Insurance.

Present law provides that the Dept. of Insurance shall be comprised of certain enumerated offices.

Present law provides for the power and duties of the division of insurance fraud within the Dept. of Insurance.

Present law requires certain persons and entities to report suspected acts of insurance fraud to the division of insurance fraud, and provides that the division shall report alleged violations of law to certain criminal justice entities.

Present law provides that persons acting without malice, fraudulent intent, or bad faith shall not be subject to civil liability for libel, slander, or any other relevant tort for reporting suspected insurance fraud to the division of insurance fraud if required by law to report such.

Present law provides that criminal background information in the possession of the division of insurance fraud shall be confidential and shall not be disclosed to others outside of the division except as necessary for action on the application of the applicant.

Present law provides for the creation and duties of the division of consumer services, the deputy commissioner of consumer services, the division of legal services, and the deputy commissioner for legal services within the Dept. of Insurance.

Proposed law retains present law, and changes the name of the division of insurance fraud, the division of legal services, and the division of consumer services to the office of insurance fraud, the office of legal services, and the office of consumer services.

Proposed law creates the office of policy, innovation, and research within the Dept. of Insurance.

Present law provides that the board of directors of the La. Automobile Theft and Insurance Fraud Prevention Authority shall select a director and assistant director, who will operate the daily affairs of the authority and serve at the pleasure of the commissioner.

Proposed law repeals present law and provides that the commissioner shall operate the daily affairs of the authority.

Present law provides that the commissioner may employ persons to carry out the operations of the La. Health Care Commission, and the commission shall employ a director and an assistant director subject to approval of the commissioner.

Proposed law repeals present law and provides that the commissioner shall conduct the daily affairs of the La. Health Care Commission.

Present law provides that the commission shall appoint a director and an assistant director with the consent of the Senate who shall serve at the pleasure of the commissioner to carry out the operations of the La. Property and Casualty Insurance Commission.

Proposed law repeals present law and provides that commissioner shall conduct the daily affairs of the La. Property and Casualty Insurance Commission.

Present law provides that the officers of the department shall include the chief deputy commissioner and other enumerated deputy commissioners and assistant commissioners.

Proposed law provides that the officers of the department shall include the chief deputy commissioner, if one is appointed, the other deputy commissioners and assistant commissioners enumerated in present law, and the deputy commissioner for policy, innovation, and research.

Proposed law provides that if a chief deputy commissioner is appointed, he shall be the first assistant to the commissioner, and if a chief deputy commissioner is not appointed, the commissioner shall appoint one of the offices of deputy commissioner as his first assistant.

Present law provides that the chief deputy commissioner of the Dept. of Insurance shall be appointed by the commissioner of insurance and confirmed by the Senate.

Present law provides that the deputy commissioner of the Dept. of Insurance shall serve at the pleasure of the commissioner of insurance at a fixed salary that shall not exceed the amount approved for such position by the legislature while in session.

Proposed law retains present law for cases in which the commissioner of insurance appoints a chief deputy commissioner.

Proposed law creates an office of policy, innovation, and research within the Dept. of Insurance under the direction of the deputy commissioner for policy, innovation, and research.

Proposed law provides that the duties of the office of policy, innovation, and research and its deputy commissioner are the following:

- (1) To research and develop policy proposals relative to the regulation of insurance, the prevention and detection of insurance fraud, innovation in insurance products and technology, the availability and affordability of insurance, healthcare and health insurance, including long-term care, property and casualty insurance, including issues related to disasters, building codes, highway safety, and the adjustment and payment of claims, life insurance and annuities, and the development and promotion of the insurance industry in this state.
- (2) To develop and prepare proposals for legislation, rules and regulations, and other administrative actions.
- (3) To participate in and liaison with the National Assoc. of Insurance Commissioners (NAIC), the Interstate Insurance Product Regulation Commission (IIPRC), and the International Assoc. of Insurance Supervisors (IAIS).
- (4) To monitor the insurance regulation activities of Congress and federal agencies, the National Council of Insurance Legislators (NCOIL), the National Conference of State Legislatures (NCSL), and other organizations that affect the regulation of insurance.
- (5) Other duties and functions assigned by the commissioner of insurance.

Proposed law provides that the commissioner may employ persons as necessary to carry out the provisions of proposed law and to provide necessary staff support to the La. Health Care Commission, the La. Automobile Theft and Insurance Fraud Prevention Authority, and the La. Property and Casualty Insurance Commission.

Proposed law makes technical changes.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 22:3, 1921(A), (C), and (D), 1922(A), 1926, 1928(A)(intro. para.), 1929(A), 2132(G)(2), 2161(J), 2171(L), R.S. 36:681(C), 683, 687, 689, and 691.1; Adds R.S. 36:681(D), 686(C)(3) and (4), and 694.1; Repeals R.S. 36:686(D) and (E))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Insurance to the original bill:

1. Make technical changes.

The House Floor Amendments to the engrossed bill:

1. Restore the appointment and confirmation process in present law for the chief deputy commissioner of the Department of Insurance.
2. Restore the salary provision in present law for the chief deputy commissioner of the Department of Insurance.
3. Make technical changes.